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In the High Court of Judicature at Madras

Dated:10.04.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM  
and  
The Hon'ble Mr. Justice J.A.K. SAMPATHKUMAR

Habeas Corpus Petition No.80 of 2006

M. Kalandar Marakkayar .. Petitioner

vs.

1. The District Magistrate and  
District Collector  
Pudukkottai District  
Pudukkottai.

2. The Secretary to Government  
of Tamil Nadu  
Prohibition and Excise Department  
Fort St. George  
Chennai 9.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus directing the respondents to produce the detainee namely Rowther Naina Mohammed alias Durai S/o. Kalandar Marakkayar before this Hon'ble Court, who is detained as per order of detention passed by the first respondent in P.D.O. NO. 12/05 dated 31/8/2005 and confined at Central Prison, Trichy and set him at liberty and further direction for call for the records relating to the abovesaid order and quash the same.

For petitioner : Mr.O.S. Thilak  
For respondents : Mr. Abudukumar Rajarathinam  
Govt., Advocate (Crl.)



ORDER

(Order of the Court was made by P. SATHASIVAM, J.,)

The petitioner by name Kalandar Marakkayar, who challenges the impugned order of detention dated 31.08.2005, detaining his son Rowther Naina Mohammed @ Durai, as "Goonda" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short "Tamil Nadu Act 14 of 1982").

2. Heard both sides.

3. Even at the foremost the learned counsel for the petitioner submitted that there was inordinate delay in considering the representation of the detenu, which vitiates the ultimate order of detention. With reference to the said claim the learned Government Advocate has placed details, which show that the representation of the detenu dated Nil was received by the Government on 14.10.2005; remarks were called on 17.10.2005, remarks were received on 15.11.2005. Even after receipt of the remarks, the same was dealt with by the Under Secretary on 15.11.2005 and the Deputy Secretary on 16.11.2005; order was passed by the Minister for Prohibition and Excise on 17.11.2005, rejection letter was prepared on 29.11.2005; the same was sent to the detenu on 30.11.2005 and the rejection letter was served on the detenu only on 03.12.2005. As rightly pointed out though the concerned Minister has passed an order on 17.11.2005, there is no explanation or reason for not forwarding the same to the detenu till 03.12.2005. In the absence of any explanation, we hold that the delay between 17.11.2005 and 03.12.2005 is enormous. On this ground, the impugned detention order is vitiated and the same is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.

Kh

Sd/  
Asst.Registrar

/true copy/

Sub Asst.Registrar



To

1. The District Magistrate and  
District Collector  
Pudukkottai District  
Pudukkottai.

2. The Secretary to Government  
of Tamil Nadu  
Prohibition and Excise Department  
Fort St. George  
Chennai 9.

3. The Superintendent  
Central Prison  
Tiruchirappalli 620 020.

4. The Public Prosecutor  
High Court, Madras.

5. The Joint Secretary to Government  
Public (Law and Order)  
Fort Saint George  
Chennai 9

MAB (CO)  
NM(20.04.2006)

H.C.P.No.80 of 2006